IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 3889 of 2007()

CRIME NO.267/07 OF KOLLAM EAST POLICE STATION

PETITIONER/ACCUSED

G.MANOJ, S/O.GOPALAKRISHNAN,
KIZHAKKADATHU VADAKKATHIL, ASRAMAM,
KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, KOLLAM EAST POLICE
STATION, KOLLAM DISTRICT THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3889 OF 2007

Dated this the 4th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Accused 2 and 3 have already been arrested and enlarged on bail. The crux of the allegations is that spurious gold was pledged in the name of the petitioner and the bank was defrauded to part with money. The petitioner has come to this Court apprehending imminent arrest.

2. The learned Public Prosecutor, after taking instructions, submits that the investigation is already completed and without and before arresting the 1st accused, final report has already been filed. It is for the petitioner now to appear before the learned Magistrate and seek regular bail, submits the learned Public Prosecutor. The learned Public Prosecutor submits that no circumstances justifying the issue

of directions under Sec.438 of the Cr.P.C. is there in favour of the petitioner now.

3. I find merit in the opposition by the learned Public Prosecutor. No circumstances justifying the invocation of the equitable discretion under Sec.438 of the Cr.P.C. are shown to exist. This is an eminently fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary course.

4. In the result, this petition is dismissed. But I may hasten to observe that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge